

Commissioner for Patents
USPTO
Washington, DC 20231

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June 19, 2007

Petition from requirement for restriction

Respectful Commissioner,

The applicant appeals the Commissioner for reconsideration of the requirement for restriction. The examiner argues that the claimed plasmids are distinct and it is a burden of search to examine the plasmids in a single patent application.

The applicant disagrees with the requirement for restriction and request for reconsideration of the plasmids presented in the claims 26 to 40 to be examined in one group as a single invention. The applicant believes the disclosed plasmids are related. The reasons are listed on the amendments filed on January 18, 2007. In summary, the plasmids presented in claims 26 to 40 are synthesized by same design, are initially designed for same purpose, are made by same method, can be used together and are used together in a single product. Therefore the claimed plasmids are clearly related. Furthermore many recently issued patents claimed multiple plasmids such as US patent numbers 7,078,513, 6,818,441, and 6,777,229 to name a few. In addition, the plasmids presented in claims 26 to 40 are small plasmids. The sizes of the plasmids presented in claims 26 to 40 are only 1906, 2315, and 1982 in base pairs (SEQ ID NOs: 37, 39 and 41). The burden of search is proportional to the plasmid size. The larger the plasmid, the more sequences need to be searched. The smaller the plasmid, the less sequences need to be

searched. Together the plasmids presented in claimed 26 to 40 are less than 7 kilo bases (kb) which is much smaller than many plasmids presented in the issued patents. For example, one plasmid of issued US patent no. 6,777,229 is 27.8 kb which is more than four times length of all the plasmids presented in claims 26 to 40 (about 6.2 kb). Many plasmids in many issued patents are larger than all plasmids presented in the claims 26 to 40 together. The plasmids presented in claims 26 to 40 are small plasmids and shall not be a burden of search when they are examined together.

Therefore the applicant respectfully requests the Commissioner's reconsideration for the plasmids presented in the claims 26 to 40 to be examined in one group as a single invention.

No petition fee is included as set forth in 37 CFR 1.17 for petition from requirement for restriction.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuan Li", with a stylized, cursive script.

Chuan Li

Applicant name: Chuan Li

Title of the application: DE NOVO SYNTHESIZED PLASMID, METHODS OF MAKING AND USE THEREOF

Application number: 10/068,664

Filing Date: 02/06/2002